

Draft Minutes of the  
Delta Protection Commission  
Thursday, March 25, 2004

**1. Call to Order/Roll Call**

Chairman McCarty called the meeting to order at 6:40 p.m.

**Present:** Chairman McCarty, Commissioners Coglianese, Curtis, Ferguson, Johnson, Kelly, Sanders, Sturm, van Loben Sels, and Wilson.

**Absent:** Commissioners Beltran, Cabaldon, Calone, Forney, Glover, McGowan, Nottoli, Ornellas, and Shaffer.

**2. Public Comment**

Remi Goldsmith, Field Representative for the Office of Congresswoman Ellen Taucher introduced herself to the Commission. Ms. Goldsmith works on water issues and grants awareness for the areas of Walnut Grove, Isleton, Bethel Island, Oakley, Antioch and central Contra Costa County. She also introduced Jennifer Barton, who serves as the District Director for the Congresswoman, and urged the Commissioners to contact her if they have any issues.

**3. Minutes of the Last Meeting**

Commissioner van Loben Sels moved approval of the minutes; Commissioner Wilson seconded. The minutes were approved by voice vote; Commissioner Sturm abstained.

**4. Chairman's Report**

Chairman McCarty reported that Assemblymember Lois Wolk was appointed to the Commission as the ex-officio member of the Assembly; and Senator Machado will remain as the ex-officio member of the Senate.

Chairman McCarty welcomed Commissioner Kelly who was reappointed to the Commission by the new director of the Department of Water Resources, Lester Snow.

Chairman McCarty reported that he had the opportunity to visit the River Islands Office where he received a briefing on the proposed development project.

The next meeting of the Delta Protection Commission is scheduled for Thursday, May 27, 2004. Tentative items on the agenda include the City of Oakley General Plan, and Commission Budget and Workplan for FY 2004-2005.

Chairman McCarty announced that at the last meeting the Commission suggested appointing a Committee to review and advise the full Commission on projects in the Secondary Zone that may impact the resources of the Primary Zone. He said the first task of the Committee would

be to prepare criteria to determine which projects would be reviewed by the Commission. Commissioners Coglianesi, Kelly and van Loben Sels volunteered to sit on the new committee.

#### **5. Commissioner Comments/Announcements**

Commissioner Kelly said the Department of Water Resources (DWR) and other CALFED agencies were working on the Delta Improvements Package. The package includes actions to improve water quality, water supply reliability, and the ecosystem. The project is in the middle of the first stage of the CALFED programs, with DWR issuing the draft EIR/EIS on the South Delta Improvements Program, which proposes to increase the State Water Project, export limit. At issue is how to increase the Delta export limit when Delta water quality standards are not met. DWR is putting together a package and working through an outreach process. The project was discussed at the April 7-8 California Bay Delta Authority meeting; the objective is to have an implementation agreement toward the middle of 2004.

#### **6. Attorney General's Report**

Dan Siegel reported that he had nothing to report.

#### **7. Executive Director's Report**

Margit Aramburu distributed handouts: a map on regional planning, an update on pending legislation, a copy of Dan Walters Column regarding the Commission, and information on the CALFED strategy on mercury. She announced that Assemblymember Lois Wolk would be making changes to her legislation (AB 2476) directing the Commission to prepare a report to identify lands in the Secondary Zone that if developed would have an impact on the Primary Zone. The report would be due in October 2006 and should clarify actions of the Commission that lead to the amendment of the Regional Plan, and impact of Commission actions to appeals of local government actions that local governments must make the changes the Commission direct. A funding cap of \$250,000 would be eliminated for accumulation of funds to carry out DPC activities; and lastly, the amended legislation would require amendment of the General Plan by local government in the Secondary Zone from agriculture to urban to provide mitigation of one to one or equivalent fees. The amendments will be agendized for discussion at the May Commission meeting. Ms. Aramburu reported that other bills noted in the Commissioners packets have no language changes.

There were no staff comment letters on pending projects sent out since the last meeting. Commission staff sent out a flyer soliciting input on the newsletter—thus far, staff has received positive comments.

Ms. Aramburu reported that the DPC budget is continually under scrutiny and the budget would come before consideration by the Senate Budget Subcommittee #2 at the end of April. Both the Subcommittee and Legislative Analyst's Office (LAO) asked (1) if the DPC were to be funded by locally funded reimbursements, how would those funds be collected; (2) what real control does the Commission have over development; and (3) what real effect would the DPC jurisdiction have. She said Chairman McCarty has committed to attending the meeting with her to respond to the questions.

Ms. Aramburu announced that Commission staff is very close to signing a contract/grant with the Department of Boating and Waterways to help fund the Delta Recreation study—aquatic portion. Since the money must be spent by June 2005, the Commission will seek a work product within the next six months. The Commission is seeking funding from other sources to perform the terrestrial portion of the study and staff is working with the Department of Water Resources and the Department of Parks and Recreation to obtain information for the study.

The workshop on USDA programs for Delta landowners held on March 5, 2004 in Stockton, and waswell attended.

The Delta RC&D application was submitted to the Secretary for Agriculture in the fall of 2002, but did not receive funding. Due to budget shortfalls, the Secretary is not funding any new programs this fiscal year. The RC&D steering committee did receive a \$10,000 grant which is being used to set up a nonprofit corporation with the State, file the non-profit status with the IRS, and draft a revised application to submit later this year.

Commission staff is working with the Reclamation Board to develop a background report describing and mapping development. The report should be available at the Commission's May meeting.

## **8. CALFED Activities and Projects**

Ron Ott reported on the BDPAC Subcommittees and other public meetings:

Proposition 50 Integrated Regional Water Management Grant Program Workshops on March 24-25<sup>th</sup>, 2004. There will be three meetings total to determine how to allocate \$385 million to different regions for their integrated regional water plans. Mr. Ott said BDPAC would work with Commission staff to secure some money for work in the Delta.

CBDA will hold a meeting on April 7-8 to address watershed and water quality grants, including canal encasement for CCWD's canal.

Ecosystem Restoration: The ERP Science Board has developed a draft vetting process for the Delta Regional Ecosystem Restoration Implementation Plan.

## **9. Position on Freeport Regional Water Project (FRWP) Intake Location**

Ms. Aramburu said the Commission was briefed on this project in March 2003. The FRWP will serve water users in the East Bay and Sacramento County. The water will come from Folsom Dam but will stay in the American River and be exported from the Sacramento River at Freeport. The Draft Environmental Impact Report and a supplemental report discussing possible locations for the facility was released last year; and the Final Environmental Impact Report is to be released and reviewed by the FRWP Board in mid April 2004. Commission staff commented on the DEIR and sent revised comments when the supplemental report was released. Ms. Aramburu stated that at issue with the project is the proposed location, the Secondary Zone of the Delta on publicly owned property, which has raised concerns of nearby residents of the Pocket area neighborhood. Alternative locations include the west side of the Sacramento River in Yolo County in the Primary Zone. Commission comments recommended that the intake be located in the Secondary Zone on the east side of the Sacramento River on publicly owned property rather than buy privately owned property. She

further stated that since the Commission has no legal authority over any water project(s), the comments were merely advisory. She asked for Commission input on the comment letter to be submitted on the EIR and subsequent evaluation report for the location of the intake facility.

Commissioner van Loben Sels asked when the contract between DWR, Sacramento County, and the East Bay Municipal Utility District (EBMUD) expired. He also requested a copy of the contract for the Commission, and the South, Central and North Delta Water Agencies. He said he was concerned about how the contract will address what happens in drought years and the project impacts on water quality from south of Freeport when there is not enough water to take care of existing demands. Eric Mische, General Manager, FRWA said he was not aware of any expiration date on the contract because Central Valley Project (CVP) contracts are renewed on a periodic basis. He said the “amendatory contract” states that if EBMUD cannot resolve a point of diversion then it has the right to go back to Nimbus and take water from the American River. He said the Authority is comprised of the Sacramento County Water Agency and EBMUD. He said EBMUD has had rights to take water from the American River since 1970; however, for several decades discussions between the city and county of Sacramento, and environmental groups, resulted in the diversion point being moved from Nimbus to a point on the Sacramento River. He said a 2000 amendatory contract allowed for the movement of the point of diversion of American River water from Nimbus to one mile north of the town of Freeport. The original contract allowed EBMUD to take 150,000 acre feet each year for the duration of the contract, but the new contract limits its use. The contract does not have the same amount of water available to it (165,000 acre feet) over a three-year period. Mr. Mische stated that the most water they can take in any one year is 133,000 acre feet within the three year period. He also stated that Sacramento County is almost entirely dependent on groundwater supplies; therefore, they need a surface water supply to compliment the groundwater to meet existing and future water needs. The County is in negotiation with the Sacramento Municipal Utility District (SMUD) for transfer of water rights and also pursuing other sources.

Commissioner Coglianesi asked how biological and ecological systems in the Delta would be affected by the proposed project. Mr. Mische said that since much of what happens in the river is dependent on water quality, quantity, and temperature, the Authority performed hydrological water quality, quantity and temperature modeling; and based on those results, found that there would be a less than one percent impact reduction in upstream storage based on diversions by Freeport. He said that Delta inflows and outflows were affected by less than .2 percent by the diversion at Freeport, and impacts on downstream water contractors were affected by .2 to .3 percent or less. He said that with respect to water quality, the Authority particularly looked at chlorides, established a significant level of five milligrams per liter of chloride and found through the modeling (a seven-year period) that there were only seven months where the level of significance was exceeded. Mr. Mische said it has been concluded that there are no significant impacts to fish species; however, FRWP will be designing a fish screen to protect fish in the area.

Commissioner Coglianesi asked if Yolo county farmers’ concerns were addressed. Mr. Mische said that the Authority has had a number of public meetings addressing concerns about impacts on the river. Commissioner Coglianesi also asked if there were any conservation measures to assure that water will be used efficiently. Mr. Mische said that

EBMUD has one of the highest levels of conservation programs, with Sacramento County also embarking on a water conservation program. The demands that have been established coupled with the size of the facility and water needs are based on conservation goals and incorporating water conservation practices.

Commissioner Johnson asked if FRWP planned to provide markers, buoys or signs to warn recreational boaters of the dangers that will be in the river. Mr. Mische said that the Authority plans to put up signs alerting boaters of the hazard and they will be soliciting comments from boater safety groups before the facility is constructed.

Commissioner Sanders suggested the Commission obtain a description of how the proposed facility is a component of the Zone 40 Program. Mische said the Zone 40 Program has developed a Master Plan and has a DEIR that will be final in a few months. He said the service area of the Sacramento County Water Agency is parallel to the Cosumnes River, which includes the cities of Elk Grove, Rancho Cordova and other unincorporated areas of Sacramento County. He said surface water of about 68,500 acre feet with a maximum ground water of 40,000 acre feet is based on water forum agreements and the 1993 General Plan.

Commissioner Sanders asked if FRWP will require dredging. Mr. Mische said he did not foresee dredging because FRWP selected the deepest part of the Sacramento River to site the facility.

Commissioner van Loben Sels asked if the design of the facility will allow additional access for recreation. Mr. Mische said a recreational component was always a possibility and his organization would continue outreach on the design of the intake facility. He said the Authority will also strike the best design balance to be compatible with the various stakeholder groups and the adjacent Pocket neighborhood.

Chairman McCarty opened the public hearing.

Peggy Bohl, landowner, said the proposed intake plan benefits EBMUD and not the City of Sacramento, and saw no reason to disturb the Primary Zone and locate the facility to Site C, exposing her side of the river to yearly dredging. She said the facility should be located at the site it was originally planned for years ago.

The public hearing was closed.

Commissioner Wilson said the Commission should support the project because it was his observation that the bigger and more efficient the intake facility is, the more surface water available, which will tend to lessen the desire to take water from the Cosumnes River. He said it was also good from an agricultural perspective because there will be no overdrafting of groundwater.

Commissioner Sanders cautioned the Commission on taking a position on the project solely based on the designated site locations because they are consistent with the Commission's charge and General Plan. He said that although the Commission does not have any authority, it would not want to be put in a position of indirectly supporting a project that would ultimately be deleterious to the Delta.

Commissioner Johnson asked the Commission to include language in a supplemental letter that would consider water oriented recreation facilities for mitigation for the project.

It was moved by Commissioner Coglianesi and seconded by Commissioner Johnson to send a letter of support to the Freeport Regional Wastewater Authority to ratify the existing comment letter, and send a supplemental comment letter. The supplemental letter would indicate that the Commission has acted and affirmed staff comments, recommend water oriented recreation facility as mitigation and address prior comments regarding the elements of the resources management plan as it applies to the Primary Zone and the impacts of projects in the Secondary Zone of the Delta. The motion was approved: 9-1 (Ferguson)

#### **10. Staff Report and Preliminary Staff Analysis of the General Plan of the City of Oakley**

The City of Oakley was created in 2000 and has been working on its General Plan since that time. Ms. Aramburu said that it had been quite some time since the Commission reviewed a local government General Plan for consistency with the Commission's Plan. She reported that since there was a 30-day review period, the Commission would vote on the matter at the May 27, 2004 meeting. The Commission was briefed on the creation of the City of Oakley when it was considered by LAFCO, and recommended (and LAFCO agreed) that Oakley should have a very limited area in the Primary Zone, whereby the original proposal was for a larger area.

Mr. Barry Hand, Community Development Director, City of Oakley said his office has been working with Commission staff to make sure the Oakley General Plan is consistent with the Commission's plan—both in policy and mapping. He acknowledged Ms. Aramburu's work with Oakley staff to make sure this would happen.

Commissioner Kelly stated that she had difficulty understanding how the criteria in the plan will not result in the degradation in water quality and increase in non-point source pollution. Mr. Hand responded that the rules of stormwater collection and treatment are rapidly changing; the rules currently state to do whatever must be done to keep water onsite. He said that all storm drainage goes into a detention basin where it will be treated, settled, filtered, before it is pumped into the Delta.

Commissioner Coglianesi asked what type of safety margin was used for urban development along the shoreline. Mr. Hand said that nine feet above sea level is the basic level, so if that is not achieved, then the City will have to bring in fill.

Commissioner Kelly asked that the new Delta Urbanization Committee review the Oakley General Plan as a good exercise.

Chairman McCarty opened the public hearing. No one addressed the Commission. The public hearing was closed.

#### **11. Briefing on Regional Planning Programs Underway in the Greater Delta Region: Shaping Our Future" (Contra Costa County) and "Blueprint" by Sacramento Area Council of Governments (Sacramento and Yolo Counties)**

Ms. Clamurro stated that during the Commission's recent deliberations over its current and potential future activities and role in the Primary and Secondary Zones of the Delta, it was suggested that the Commission become more involved in several regional planning efforts ongoing around the Delta. She presented background information on two such efforts that have been undertaken in and around the Delta over the past couple of years: *Shaping Our Future*, Contra Costa County's vision of how and where growth will occur over the next twenty years; and the Sacramento Region Blueprint, a transportation and land use study being undertaken by Sacramento Area Councils of Government (SACOG).

Ms. Clamurro reported that Contra Costa County's population is projected to grow by an additional 225,000 people over the next two decades. Recognizing the need to update its vision on how to accommodate that growth while also preserving its residents' quality of life, the County and its nineteen cities set out to coordinate growth management strategies to create a unified regional approach for managing growth within the County.

The *Shaping Our Future* exercise involved several major activities, including: analysis of current growth trends in Contra Costa County relative to land use, capacity for growth and redevelopment, transportation and traffic, economic factors, and environmental resources; development of an overall vision to reflect the values of the County's citizens through numerous public workshops; establishment of guiding principles, based on the overall vision, to assist in the development of specific goals for the County; modeling of potential growth management strategies at several sites in the County; and evaluation of the various growth management scenarios and selection of the alternative that best fit the County's vision and needs.

These efforts culminated in a Vision Map (May 2003) and a *Shaping Our Future* Vision Summary document (June 2003). The Summary Document includes several Principles of Agreement, designed to serve as the foundation for *Shaping Our Future* and encourage continued dialogue among the cities. This document is intended to serve as a toolkit of suggested strategies the cities can use to implement their own smart growth development projects.

Ms. Clamurro reported that to date, sixteen of the County's nineteen city councils, as well as the County Board of Supervisors, have formally endorsed the Principles of Agreement listed within the *Shaping Our Future* Vision Summary document.

One issue of concern for the cities of Antioch and Brentwood is the revised urban limit line adopted by the County in 2000. According to a news article in the *Contra Costa Times*, officials within these two cities feel that the County was unfair in its revision of the urban limit line in 2000, excluding thousands of acres around their cities from development. Both have conditioned their approval of *Supporting Our Future's* Principles of Agreement upon an urban limit line compromise that would allow them both to annex some lands outside the revised urban limit line that were included within the spheres of influences of their existing General Plans. The project manager indicates that discussions are continuing.

**Sacramento Region Blueprint:** Ms. Clamurro reported that this comprehensive regional process integrates land use and transportation, air quality, and other regional concerns. The project began when the Sacramento Area Council of Governments (SACOG) developed the

Base Case Future, an in-depth modeling and research process that looked at how future growth is likely to occur in the greater Sacramento area if current trends continue. Moreover, the project included demographic projections, and outlined how this anticipated growth is likely to affect housing availability, land consumption, and traffic and environmental impacts over the six counties that comprise SACOG (Sacramento, Yolo, Yuba, Sutter, Placer, and El Dorado).

SACOG held numerous neighborhood and countywide public workshops in 2003 to solicit input from technical experts, local officials, community representatives, and other citizens on the Base Case Future and the Blueprint project overall. The workshops utilized state-of-the-art, real-time interactive geographic information systems (GIS) software to formulate four alternative land use and transportation scenarios that differ in terms of residential densities, redevelopment priority areas, and population growth within the cities and counties in the greater Sacramento area. The software provides citizens with instant feedback on the impacts their land use decisions would have on housing availability, land consumption, and traffic and environmental conditions within the six SACOG counties.

Participation in the Blueprint project is on a voluntary basis. Local governments will not be required to embrace its principles of smart growth, as that will be left to the discretion of the local governments as to whether they would amend their existing General Plans in light of the new information developed by Blueprint project exercises.

After compiling the information and feedback collected at the forty neighborhood and countywide workshops, the Blueprint project is now ready for its next phase: analysis of the regional perspective of growth, land use, and transportation issues. Participants were asked to provide feedback on the scenarios developed to date and to select preferred scenarios for each of the six counties, utilizing the interactive computer software to model the impacts of their decisions.

Chairman McCarty asked if the Blueprint Project would stay consistent with the Commission's Resource Management Plan. Ms. Clamurro responded that from what she has observed, yes, the project would be consistent. She also said that with respect to the Base Case future, the project is an extension of current trends and the group is looking to consolidate the development into existing areas. She stated that both projects embrace smart-growth principles.

Commissioner Coglinanese asked what did the plan say about the future of the City of Isleton. Mr. Kenneth Hough, SACOG explained that the plan mentioned nothing about the City of Isleton, as the town remains a "no growth" part of the region. He said the City of Isleton has not participated in the program other than having a member on the Project Board of Directors who participates in the meetings. Ms. Aramburu said that the City of Isleton did not hold a community workshop, but she would report back to the Commission if any new information arises.

Commissioner Ferguson asked if study groups would be looking at the issue of major highway systems connecting the new major metropolitan areas. Mr. Huff responded yes, because SACOG was a transportation planning agency. He said the only transportation project he was aware of was Highway 12.



## **12. Position on In-Delta Storage Program State Feasibility Study Prepared by Department of Water Resources; a CALFED Program**

Ms. Aramburu reported that the Bay-Delta Authority considered the Feasibility study at their April meeting.

Ray Hoagland, Steve Roberts, Paul Sandhu, and Chuck Vogelsang, DWR, provided the Commissioners a background on the project. Mr. Roberts commented that DWR and the Bureau of Reclamation (Bureau) are the implementing agencies for the surface storage program for CALFED. He said DWR was not here as proponents but technical evaluators because neither had the authority to participate formally in a feasibility study—as such the study is called a State Feasibility Study.

The project is one of five surface water storage projects listed in the CALFED Bay-Delta Program Record of Decision (ROD), completed in August 2000, that the DPC provided comments on. The project includes two storage islands—Webb Tract and Bacon Island; it provides water for agriculture, urban, Central Valley Project Improvement Act and wildlife refuge uses; added the Environmental Water Account; and added Environmental Restoration Plan flows. Mr. Vogelsang said that operational flexibility, water quality improvements, wildlife and aquatic habitat improvements, flood damage reduction, and seismic stability are some of the benefits of the program. However, a few of the issues include seepage to adjacent islands, piping through embankments, and structural stability. He added that the CALFED Science Review Panel had recommendations that will be incorporated.

Mr. Roberts reported that DWR will go before the Bay-Delta Authority to give a status on all storage projects, including in-delta storage. The project will include a recreation component and DWR will work on detailing the plan. The cost for the project is \$774 million; however, since there is not enough money to complete the five studies, the State will have to prioritize. Mr. Roberts said that the project will go before BDPAC in May and the Authority in June; DWR has received a number of comments on the project.

Commissioner van Loben Sels said he had concerns that DWR staff underestimated the total economic impacts on the communities involved. Ms. Aramburu responded that staff was proposing changes to management of habitat islands to include an agricultural component as part of the mitigation strategy to avoid loss of agriculture land; whereas proposals by private developers had very little commercial agricultural remain on the two habitat islands.

Commissioner Curtis said he could not understand spending time and money fine tuning the project because the costs outweigh the benefits by 2:1. Commissioner van Loben Sels commented that the Commission should not support the project until it sees what alternatives would cost. Mr. Hoagland responded that DWR was setting up a peer review panel to look at the technique used for the economic analysis. He said DWR was also trying to develop common assumptions to apply to the storage projects to weigh the benefits to see which projects provide the most opportunities for water supply reliability in the state and Delta. He said DWR is working with the Reclamation Board and CALFED to finalize the report for the April Authority meeting and he will have a revised report in six months with common assumptions laid out.

Commissioner Ferguson asked if DWR addressed the concerns of the Central Delta Water Agency. Mr. Hoagland answered in the affirmative.

Commissioner van Loben Sels said he felt DWR was misrepresenting the risk assessment on the neighboring island levees. Mr. Roberts said that he disagreed because the goal of CALFED is to assure that all levees are protected. He said it was unlikely the project would move forward if CALFED knew ahead of time that it could not protect adjacent islands. Commissioner Wilson commented that he agreed with Commissioner van Loben Sels because that was the reality.

Chairman McCarty asked for public comments.

Jerry Robinson, Central Water Agency asked if there was a market for the water that would sit on the islands and the yield for the project. Mr. Roberts said there were no specific beneficiaries, and the yield would be 130,000 acre feet based on DWR evaluations on experimental work on organic carbon.

Bill Geyer, Resource Landowners Coalition, asked about the mitigation strategies for farmland. Mr. Hoagland said that it was unclear what the CALFED mitigation strategy was.

Chairman McCarty said he wanted the Commission to get a better understanding of the full range of negative impacts to agriculture from this project. He said it is important that the Commission address the legitimate concerns and the costs of the project.

It was moved by Commissioner van Loben Sels and seconded by Commissioner Curtis to update and resubmit a comment letter on the In-Delta Storage Program State Feasibility Study. The motion was approved 9-1. Commissioner Kelly abstained.

Commissioner Coglianese requested an update on the SAFCA Lower Sacramento River Regional Project for Flood Control.

### **13. Adjourn**

Chairman McCarty adjourned the meeting at 9:35 p.m.